

April 12, 2004  
Case No.: AUS920010131US1 (9000/30)  
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**-- REMARKS --**

The present amendment replies to a First Non-Final Office Action dated January 13, 2004. Claims 1-33 are currently pending in the present application. The Applicants have thoroughly considered the Examiner's remarks concerning the patentability of claims 1-33. Claims 1, 3, 16, 17, 19, 32, and 33 were amended herein to more particularly point out and distinctly claim the present invention. No new matter has been introduced by the amendments to claims 1, 3, 16, 17, 19, 32, and 33. The Applicants would like to thank the Examiner for granting a phone interview on March 31, 2004 and regret that an agreement furthering the progress of the application was not reached.

Claims 1, 16, 17, 32, and 33 were rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the present invention. Said claims have been amended herein in accordance with the Examiner's suggestions. Withdrawal of the rejection of claims 1, 16, 17, 32, and 33 under 35 U.S.C. § 112 is respectfully requested.

Claims 2-16 and 18-32 were rejected under 35 U.S.C. § 112 for depending upon rejected claims 1 and 17. Said dependent claims are now allowable for at least the same reasons as set forth above with respect to independent claims 1 and 17. Withdrawal of the rejection of dependent claims 2-16 and 18-32 under 35 U.S.C. § 112 is respectfully requested.

Claims 1-4, 6-12, 17-20, 22-28, and 33 were rejected under 35 U.S.C. § 102(e) as being anticipated by Horst et al. (USPN 6,484,235B1). The Applicants disagree with the Examiner's assertion that Horst discloses an inactive group in column 14, lines 49-60 as is provided in independent claims 1, 17, and 33 of the present application. In fact, Horst fails to disclose, teach, or suggest an inactive group at all. Rather, Horst discloses a modified RAID strategy that requires all disks to be actively online thereby allowing simultaneous access to improve performance (see column 5, lines 7-28; column 15, lines 7-14). As such, the strategy disclosed by Horst may include unbalanced/increased disk wear and high power consumption.

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As each and every limitation of the independent claims 1, 17, and 33 is not disclosed in Horst, said claims cannot be anticipated by Horst. Withdrawal of the rejection of independent claims 1, 17, and 33 under 35 U.S.C § 102(e) is respectfully requested.

Regarding claims 3, 4, 6-12, 18-20, and 22-28 said claims depend from and therefore include all of the elements and limitations independent claims 1 and 17. The Applicants submit that dependent claims 3, 4, 6-12, 18-20, and 22-28 are allowable over Horst for at least the same reasons as set forth above with respect to independent claims 1 and 17. Withdrawal of the rejection of dependent claims 3, 4, 6-12, 18-20, and 22-28 under 35 U.S.C § 102(e) is respectfully requested.

Claims 5 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Horst et al. (USPN 6,484,235B1) in view of Toada et al. (USPN 5,809,647A). Said claims depend from and therefore include all of the elements and limitations of independent claims 1 and 17. The Applicants submit that dependent claims 5 and 21 are allowable over Horst and Toada, which fail to teach, suggest, or disclose an inactive group as was set forth above with respect to independent claims 1 and 17. Because Horst and Toada, singly or in combination, fail to disclose all the limitations of the rejected claims, the combination of Horst and Toada would not have been obvious to one of ordinary skill in the art and would not result in the present invention as described in the rejected claims. Withdrawal of the rejection of dependent claims 5 and 21 under 35 U.S.C § 103(a) is respectfully requested.

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Claims 16 and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Horst et al. (USPN 6,484,235B1) in view of Bennett et al. (USPN 6,577,465B1). Said claims depend from and therefore include all of the elements and limitations of independent claims 1 and 17. The Applicants submit that dependent claims 16 and 32 are allowable over Horst and Bennett, which fail to teach, suggest, or disclose an inactive group as was set forth above with respect to independent claims 1 and 17. Because Horst and Bennett, singly or in combination, fail to disclose all the limitations of the rejected claims, the combination of Horst and Bennett would not have been obvious to one of ordinary skill in the art and would not result in the present invention as described in the rejected claims. Withdrawal of the rejection of dependent claims 16 and 32 under 35 U.S.C § 103(a) is respectfully requested.

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**SUMMARY**

Examiner Wilson's 35 U.S.C. § 112 rejection has been overcome by the above amendments corresponding to claims 1-33. The 35 U.S.C. § 102 and 103 rejections have been traversed by the above remarks corresponding to claims 1-33. The Applicants respectfully submit that claims 1-33 fully satisfy the requirements of 35 U.S.C. § 102, 103, and 112 and are in a condition for allowance. In view of the foregoing remarks, favorable consideration and passage to issue of the present application are respectfully requested.

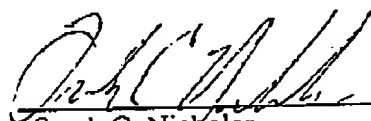
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Respectfully submitted,  
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